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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/830,194	04/23/2001	Timothy P. Croughan	98A9-USCROUG	2938

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PATENT DEPARTMENT  
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EXAMINER

KRUSE, DAVID H

ART UNIT PAPER NUMBER

1638

DATE MAILED: 12/03/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/830,194

Applicant(s)

CROUGHAN, TIMOTHY P.

Examiner

David H Kruse

Art Unit

1638

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 22 July 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-14,30-38,54-61 and 82-128 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-14,30-38,54-61 and 82-128 are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

1. This Office Action is in response to the Provisional Election filed 22 July 2002.
2. This Office action contains a new requirement for Election/Restriction, therefore the previous requirement mailed 5 March 2002 is withdrawn. The Office apologizes for any inconvenience to Applicant.
3. The annexes filed 23 April 2001 containing the Substitute Sheets of claims have been entered into the file. Claims 62-73 and 75-81 have been cancelled.
4. The pending claims are 1-14, 30-38, 54-61 and 82-128.

***Election/Restrictions***

5. Restriction is required under 35 U.S.C. §§ 121 and 372.

This application contains the following inventions or groups of inventions, which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR § 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 1-15, 31, 38, 54 and 61, drawn to the rice plant deposited with ATCC under accession number PTA-904, rice plants derived therefrom and a method of using said rice plant to control weeds.

Group II, claim(s) 1-15, 32, 38, 55 and 61, drawn to the rice plant deposited with ATCC under accession number PTA-905, rice plants derived therefrom and a method of using said rice plant to control weeds.

Group III, claim(s) 1-15, 33, 38, 56 and 61, drawn to the rice plant deposited with ATCC under accession number PTA-902, rice plants derived therefrom and a method of using said rice plant to control weeds.

Group IV, claim(s) 1-15, 34, 38, 57 and 61, drawn to the rice plant deposited with ATCC under accession number PTA-903, rice plants derived therefrom and a method of using said rice plant to control weeds.

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Group V, claim(s) 1-15, 35, 38, 58 and 61, drawn to the rice plant deposited with ATCC under accession number PTA-906, rice plants derived therefrom and a method of using said rice plant to control weeds.

Group VI, claim(s) 1-15, 36, 38, 59 and 61, drawn to the rice plant deposited with ATCC under accession number PTA-907, rice plants derived therefrom and a method of using said rice plant to control weeds.

Group VII, claim(s) 1-15, 37, 38, 60 and 61, drawn to the rice plant deposited with ATCC under accession number PTA-908, rice plants derived therefrom and a method of using said rice plant to control weeds.

Group VIII, claim(s) 82-96, 97, 112, 113 and 128, drawn to the rice plant deposited with ATCC under accession number 203419, rice plants derived therefrom and a method of using said rice plant to control weeds.

Group IX, claim(s) 82-96, 98, 112, 114 and 128, drawn to the rice plant deposited with ATCC under accession number 203420, rice plants derived therefrom and a method of using said rice plant to control weeds.

Group X, claim(s) 82-96, 99, 112, 115 and 128, drawn to the rice plant deposited with ATCC under accession number 203421, rice plants derived therefrom and a method of using said rice plant to control weeds.

Group XI, claim(s) 82-96, 100, 112, 116 and 128, drawn to the rice plant deposited with ATCC under accession number 203422, rice plants derived therefrom and a method of using said rice plant to control weeds.

Group XII, claim(s) 82-96, 101, 112, 117 and 128 drawn to the rice plant deposited with ATCC under accession number 203423, rice plants derived therefrom and a method of using said rice plant to control weeds.

Group XIII, claim(s) 82-96, 102, 112, 118 and 128, drawn to the rice plant deposited with ATCC under accession number 203424, rice plants derived therefrom and a method of using said rice plant to control weeds.

Group XIV, claim(s) 82-96, 103, 112, 119 and 128, drawn to the rice plant deposited with ATCC under accession number 203425, rice plants derived therefrom and a method of using said rice plant to control weeds.

Group XV, claim(s) 82-96, 104, 112, 120 and 128, drawn to the rice plant deposited with ATCC under accession number 203426, rice plants derived therefrom and a method of using said rice plant to control weeds.

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Group XVI, claim(s) 82-96, 105, 112, 121 and 128, drawn to the rice plant deposited with ATCC under accession number 203427, rice plants derived therefrom and a method of using said rice plant to control weeds.

Group XVII, claim(s) 82-96, 106, 112, 122, and 128, drawn to the rice plant deposited with ATCC under accession number 203428, rice plants derived therefrom and a method of using said rice plant to control weeds.

Group XVIII, claim(s) 82-96, 107, 112, 123 and 128, drawn to the rice plant deposited with ATCC under accession number 203429, rice plants derived therefrom and a method of using said rice plant to control weeds.

Group XIX, claim(s) 82-96, 108, 112, 124 and 128, drawn to the rice plant deposited with ATCC under accession number 203430, rice plants derived therefrom and a method of using said rice plant to control weeds.

Group XX, claim(s) 82-96, 109, 112, 125 and 128, drawn to the rice plant deposited with ATCC under accession number 203431, rice plants derived therefrom and a method of using said rice plant to control weeds.

Group XXI, claim(s) 82-96, 110, 112, 126 and 128, drawn to the rice plant deposited with ATCC under accession number 203432, rice plants derived therefrom and a method of using said rice plant to control weeds.

Group XXII, claim(s) 82-96, 111, 112, 127 and 128, drawn to the rice plant deposited with ATCC under accession number 203433, rice plants derived therefrom and a method of using said rice plant to control weeds.

6. The inventions listed as Groups I-XXII do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: The technical feature shared by all of the claims is an herbicide resistant rice plant, examples of which were known in the art prior to Applicant's invention. Hence, the instant claims do not share a special technical feature as required under PCT Rule 13.2 and thus do not relate to a single general inventive concept as required under PCT Rule 13.1. See for example U.S. Patent 5,545,822, Croughan, cited by Applicant in the IDS filed 30 July 2001.

7. Applicant is advised that the reply to this requirement to be complete within one month (not less than 30 days) must include an election of the invention to be examined even though the requirement be traversed (37 CFR § 1.143).

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David H. Kruse, Ph.D. whose telephone number is (703) 306-4539. The examiner can normally be reached on Monday to Friday from 8:00 a.m. to 4:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dr. Amy Nelson can be reached at (703) 306-3218. The fax telephone number for this Group is (703) 872-9306 Before Final or (703) 872-9307 After Final.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group Receptionist whose telephone number is (703) 308-0196.

A handwritten signature in black ink, appearing to read "Amy Nelson", with a stylized flourish at the end.

David H. Kruse, Ph.D.  
2 December 2002

**AMY J. NELSON, PH.D**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 1600**